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Message Text

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FM SECSTATE WASHDC
TO AMEMBASSY COLOMBO

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FOR AMBASSADOR

E.O. 11652: N/A

TAGS: SHUM,CE, US

SUBJECT: ADVANCE NOTIFICATION OF HUMAN RIGHTS REPORTS

REF: STATE 18330

1. FINAL TEXT OF HUMAN RIGHTS REPORT FOR SRI LANKA, WHICH WILL BE SUBMITTED TO CONGRESS BY JANUARY 31, IS TRANSMITTED HEREWITH. YOU SHOULD, AT YOUR DISCRETION, PROVIDE TEXT OF REPORT TO APPROPRIATE HOST GOVERNMENT OFFICIALS, PRIOR TO THAT DATE.

2. IN PROVIDING ADVANCE COPY TO HOST GOVERNMENT, YOU SHOULD MAKE THE FOLLOWING POINTS IN EXPLANATION:

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-- THE EFFECT OF LEGISLATION WHICH BECAME EFFECTIVE LAST YEAR IS TO REQUIRE THE SECRETARY TO SUBMITA "FULL AND COMPLETE" REPORT ON THE STATUS OF INTERNATIONALY-RECOGNIZED HUMAN RIGHTS IN EACH COUNTRY WHICH RECEIVES EITHERDEVELOP-MENT OR SECURITY ASSISTANCE FROM THE UNITED STATES.

-- WE BROUGHT THIS LEGAL REQUIREMENT TO THE ATTENTION OF

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THE CEYLONESE GOVERNMENT LAST NOVEMBER.

-- 109 SUCH HUMAN RIGHTS REPORTS WILL BE SUBMITTED TO THE CONGRESS O/A JANUARY 31. WE ARE PROVIDING THEREFORE AN ADVANCE COPY OF THE REPORT ON SRI LANKA.

-- CONGRESS HAS EXPRESSLY REQUESTED THAT INFORMATION PUBLISHED BY INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS BE INCLUDED IN THE REPORT.

-- THE DEPARTMENT OF STATE WILL NOT DISTRIBUTE THESE REPORTS TO THE PRESS OR PUBLIC OR OTHERWISE DRAW ATTENTION TO THEM. HOWEVER, THEY WILL BE MADE A MATTER OF PUBLIC RECORD BY THE CONGRESS AND WE EXPECT THEY WILL RECEIVE ATTENTION IN THE PRESS.

BEGIN TEXT: DURING ITS THREE DECADES OF INDEPENDENCE, SRI LANKA HAS MAINTAINED AN UNBROKEN COMMITMENT TO DEMOCRATIC PRINCIPLES AND HUMAN RIGHTS. POWER HAS CHANGED HANDS IN AN ORDERLY FASHION AT EACH OF THE SIX GENERAL ELECTIONS HELD SINCE 1953. SUCCESSIVE GOVERNMENTS HAVE SUCCESSFULLY IMPLEMENTED POLICIES AIMED AT RAISING LITERACY AND EDUCATIONAL LEVELS, IMPROVING HEALTH AND NUTRITIONAL STANDARDS AND RE-DISTRIBUTING INCOME. THE GOVERNMENTS HAVE MAINTAINED A COMMITMENT TO HUMAN RIGHTS DESPITE AN INSURGENCY AND TWO MAJOR DOMESTIC OUTBREAKS OF VIOLENCE.
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1. RESPECT FOR THE INTEGRITY OF THE PERSON, INCLUDING FREEDOM FROM:

A. TORTURE

TORTURE IS NOT CONDONED IN SRI LANKA AND NO INSTANCES OF TORTURE HAVE BEEN REPORTED.

B. CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT

SUCH TREATMENT OF PUNISHMENT IS NOT IMPOSED IN SRI LANKA.

C. ARBITRARY ARREST OR IMPRISONMENT

ARBITRARY ARREST OR IMPRISONMENT IS NOT PRACTICED. THE CONSTITUTION SPECIFICALLY PROVIDES THAT NO PERSON SHALL BE ARRESTED, HELD IN CUSTODY, IMPRISONED, OR DETAINED EXCEPT IN ACCORDANCE WITH THE LAW. THE PRESENT GOVERNMENT'S ACTIONS DURING THE AUGUST 1977 VIOLENCE STAND AS EVIDENCE THAT SRI LANKA IS A FUNCTIONING DEMOCRACY IN WHICH THE GUARANTEES PROVIDED IN THE CONSTITUTION ARE CARRIED OUT IN

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PRACTICE. THE VIOLENCE IN AUGUST 1977 BETWEEN THE MAJORITY SINHALESE AND MINORITY TAMIL COMMUNITIES SNOWBALLED FROM A MINOR INCIDENT INTO NATIONWIDE STRIFE THAT CLAIMED 150

LIVES AND GENERATED 50,000 REFUGEES. THE GOVERNMENT QUELLED THESE DISTURBANCES WITHOUT RESORT TO DECLARATION OF A NATIONAL EMERGENCY. NEARLY 5,000 PERSONS WERE ARRESTED UNDER NORMAL PROCEDURES; THESE PEOPLE WERE ALL BROUGHT BEFORE A MAGISTRATE WITHIN 24 HOURS, WHERE THEY WERE EITHER FREED, GRANTED BAIL OR REMANDED TO CUSTODY. MOST WERE RELEASED ON BAIL WITHIN A FEW DAYS OF THEIR ARREST. ALMOST ALL OF THOSE REMANDED BY A MAGISTRATE WERE RELEASED ON BAIL WITHIN ONE MONTH OF THEIR ARREST. A SMALL NUMBER ARE AWAITING TRIAL.
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D. DENIAL OF FAIR PUBLIC TRIAL

IN NOVEMBER 1977, THE GOVERNMENT REPEALED THE CRIMINAL JUSTICE COMMISSION ACT, A SPECIAL LAW THAT HAD ALTERED SRI LANKA'S NORMAL JUDICIAL PROCEDURE OF FAIR PUBLIC TRIALS. THE PREVIOUS GOVERNMENT HAS PASSED THE ACT TO TRY INSURGENTS WHO IN 1971 SOUGHT BY VIOLENCE TO OVERTHROW THE GOVERNMENT OF PRIME MINISTER BANDARANAIKE. UNDER THE ACT, A SPECIAL CRIMINAL JUSTICE COMMISSION WAS EMPOWERED TO ADMIT EVIDENCE INADMISSIBLE IN CIVIL OR CRIMINAL PROCEEDINGS, AND THE COMMISSION'S VERDICT WAS FINAL AND MONAPPEALABLE. TOGETHER WITH THE NOVEMBER 1977 REPEAL OF THE ACT, THE NEW GOVERNMENT RELEASED 137 PERSONS WHO HAD BEEN TRIED AND SENTENCED UNDER THE ACT.

E. INVASION OF THE HOME

THERE ARE EFFECTIVE LEGAL SAFEGUARDS AGAINST ARBITRARY INVASION OF THE HOME, INCLUDING THE REQUIREMENT THAT A SEARCH WARRANT BE OBTAINED. THIS RIGHT CAN BE SUSPENDED ONLY IF A NATIONAL EMERGENCY IS DECLARED. THE NEW GOVERNMENT DEALT WITH THE AUGUST 1977 VIOLENCE WITHOUT DECLARING AN EMERGENCY, AND SEARCHES OF HOMES TOOK PLACE ONLY BY WARRANT.

2. GOVERNMENTAL POLICIES RELATING TO THE FULFILLMENT OF SUCH VITAL NEEDS AS FOOD, SHELTER, HEALTH CARE AND EDUCATION

SRI LANKA HAS A REMARKABLE RECORD IN MEETING THE SOCIAL AND ECONOMIC NEEDS OF ITS PEOPLE. HEALTH CARE IS ACCESSIBLE TO ALL, EDUCATION IS UNIVERSAL, THE LITERACY RATE IS
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85 PERCENT, LIFE EXPECTANCY IS 67 YEARS, AND THE GOVERNMENT PROVIDES FOOD SUBSIDIES TO THE POOR. THESE ECONOMIC AND SOCIAL BENEFITS ALSO ARE AVAILABLE TO THE APPROXIMATELY ONE MILLION NON-CITIZEN TAMILS. HOWEVER, BECAUSE THEY WILL BE REPATRIATED TO INDIA UNDER THE TERMS OF 1964 AND 1974 AGREEMENTS BETWEEN SRI LANKA AND INDIA, NON-CITIZEN

TAMILS ARE NOT ALLOWED TO PARTICIPATE IN THE GOVERNMENT'S RESETTLEMENT PROGRAMS IN NEWLY-DEVELOPED AGRICULTURAL AREAS.

SRI LANKA IS COMMITTED TO THE CREATION OF A DEMOCRATIC SOCIALIST STATE. INCOME DISTRIBUTION HAS BECOME MORE EQUITABLE.

3. RESPECT FOR CIVIL AND POLITICAL LIBERTIES, INCLUDING:

A. FREEDOM OF THOUGHT, SPEECH, PRESS, RELIGION AND ASSEMBLY

FREEDOM OF THOUGHT, SPEECH, PUBLICATION, RELIGION AND ASSEMBLY IS GUARANTEED BY THE CONSTITUTION. WHILE THE CONSTITUTION OF 1972 DOES ACCORD THE "FOREMOST PLACE" TO BUDDHISM AND REQUIRES THE STATE "TO PROTECT AND FOSTER BUDDHISM," THERE IS NO INDICATION THAT IN PRACTICE THIS WORKS TO THE DETRIMENT OF OTHER RELIGIONS. GOVERNMENT CENSORSHIP IS NOT EMPLOYED, AND PUBLICATIONS CARRY ON AN ACTIVE DISCUSSION OF LOCAL AND INTERNATIONAL AFFAIRS. THE GOVERNMENT-OWNED PUBLIC BROADCASTING CORPORATION PERMITS THE EXPRESSION OF DIFFERING VIEWPOINTS. THE NON-CITIZENS OF SRI LANKA ENJOY THE SAME RIGHTS OF THOUGHT, SPEECH, PRESS, RELIGION AND ASSEMBLY AS CITIZENS.

B. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL AND EMIGRATION

THE CONSTITUTION GUARANTEES FREEDOM OF MOVEMENT WITHIN THE COUNTRY AND THE RIGHT TO CHOOSE ONE'S PLACE OF RESIDENCE. THIS RIGHT EXTENDS EQUALLY TO CITIZENS AND NON-CITIZENS. FOREIGN TRAVEL AND EMIGRATION ARE NOT RESTRICTED.

C. FREEDOM TO PARTICIPATE IN THE POLITICAL PROCESS

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AS A DEMOCRACY, SRI LANKA HAS SEEN POWER CHANGE HANDS SIX TIMES SINCE INDEPENDENCE IN 1948. DURING THE RECENT ELECTIONS IN JULY 1977, AN OPEN CAMPAIGN WAS CONDUCTED; FREEDOM OF SPEECH, ASSEMBLY, AND PRESS WERE NOT ABRIDGED. SRI LANKA'S CITIZENS EXPRESSED THEMSELVES FREELY DURING THE ELECTION CAMPAIGN AND AT THE POLLS.

4. GOVERNMENT ATTITUDES AND RECORD REGARDING INTERNATIONAL AND NON-GOVERNMENTAL INVESTIGATION OF ALLEGED VIOLATIONS OF HUMAN RIGHTS

SRI LANKAN GOVERNMENTS GENERALLY HAVE BEEN RECEPTIVE TO OUTSIDE INVESTIGATIONS. WHILE THE PREVIOUS GOVERNMENT AT

FIRST WELCOMED AMNESTY INTERNATIONAL'S INVESTIGATION OF ITS HANDLING OF THE DETENTION OF INSURGENTS IN 1971, RELATIONS DETERIORATED AS A RESULT OF DISPUTES OVER THE DETENTION POLICIES THEN BEING FOLLOWED BY THAT GOVERNMENT. VANCE

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